



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

NOV -5 2015

David J. Hale, Jr.
David Hale for Congress
P.O. Box 6004
Rockford, IL 61104

RE: MUR 6770

Dear Mr. Hale:

On January 7, 2015, the Federal Election Commission notified you and your campaign committee, David Hale for Congress and you, in your official capacity as treasurer (the "Committee"), of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). On October 22, 2015, the Commission found, on the basis of the information in the complaint, and information provided by you, that there is no reason to believe you violated 52 U.S.C. § 30102(e)(1), a provision of the Act, and 11 C.F.R. § 101.1(a) of the Commission's Regulations. Also on this date, the Commission exercised its prosecutorial discretion and dismissed the allegation that David Hale for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. 30120(a)(1) and 11 C.F.R. § 110.11(b)(1). Accordingly, the Commission closed its file in this matter.

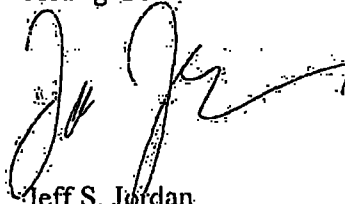
Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). The Factual and Legal Analyses, which explain the Commission's findings, are enclosed for your information.

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If you have any questions, please contact Claudio J. Pavia, the attorney assigned to this matter, at (202) 694-1597.

Sincerely,

Daniel A. Petalas
Acting General Counsel

A handwritten signature in dark ink, appearing to read "Jeff S. Jordan", is written over the typed name.

BY: Jeff S. Jordan
Assistant General Counsel
Complaints Examination and
Legal Administration

Enclosures:
Factual and Legal Analyses

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: David Hale

MUR 6770

I. INTRODUCTION

This matter was generated by a complaint filed by John Lask on December 31, 2013, alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act") and Commission regulations by David Hale.¹ It was scored as a relatively low-rated matter under the Enforcement Priority System, a system by which the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue.

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

The Complaint alleges that Hale "credibly aggregated" at least \$5,000 in expenditures and contributions but did not file a timely Statement of Candidacy with the Commission. Compl. at 2. The Complaint does not cite to specific information regarding Hale's expenditures or contributions received, but provides general descriptions of his campaign activities. According to the Complaint, Hale traveled across the sixteenth district for campaign purposes and outside the district to file nominating petitions. *Id.* at 1. In addition, Hale allegedly made payments for printing costs, a post office box, various campaign materials, and the launch of a website. *Id.* at 1-2. The Complaint states that, after incurring

¹ Hale was an unsuccessful candidate for the 2014 primary election for Illinois's sixteenth congressional district. Hale designated his authorized committee as David Hale for Congress (the "Committee").

1 these expenses, Hale wrote a November 30, 2013 blog post claiming he had at least \$3,000
2 remaining in cash on hand. *Id.* at 2.

3 In his Response, Hale denies the allegation that he did not file a timely Statement of
4 Candidacy, and refutes the allegation that he aggregated \$5,000 in expenditures or
5 contributions at any point “during the timeframe covered by [the] complaint.” Resp. at 1-3.
6 Although Hale generally acknowledges the campaign expenses alleged in the Complaint, he
7 asserts that all transportation costs were covered by unreimbursed payments that were not
8 reportable.² *Id.* at 2.

9 **B. Legal Analysis**

10 An individual seeking nomination for election to federal office becomes a candidate
11 under the Act and Commission regulations when, *inter alia*, he or she has aggregated
12 contributions or expenditures in excess of \$5,000. 52 U.S.C. § 30101(2)(A); *see also*
13 11 C.F.R. § 100.3(a)(1). Once a person crosses the \$5,000 candidacy threshold, he or she
14 must file a Statement of Candidacy within 15 days designating a political committee to serve
15 as the candidate’s principal campaign committee. 52 U.S.C. § 30102(e)(1); *see also*
16 11 C.F.R. § 101.1(a). Unreimbursed payments for transportation expenses incurred by any
17 person on behalf of a candidate are not contributions to the extent that the aggregate value of
18 the payments does not exceed \$1,000 with respect to a single election. 11 C.F.R.
19 § 100.79(a)(1). Therefore, such unreimbursed transportation expenses are not treated as
20 contributions towards the \$5,000 candidacy threshold.

² According to Hale, the Committee disclosed all reportable travel costs. Resp. at 2; *see also* David Hale for Congress 2013 Year-End Report at 18 (Jan. 28, 2014) (in-kind contribution made by Hale for a hotel room). Hale acknowledges unreimbursed “mileage expenses” made in connection with his campaign, but asserts that they were non-reportable according to the Campaign Guide for Congressional Candidates and Committees. Resp. at 2.

1 Hale likely became a candidate sometime in January 2014, several weeks after he filed
2 a Statement of Candidacy on December 12, 2013, the same day that David Hale for Congress
3 filed a Statement of Organization.³ The transportation costs generally described in the
4 Complaint do not appear to be reportable contributions since there is no information to
5 suggest that Hale, or anyone else acting on his behalf, made unreimbursed transportation
6 payments in excess of \$1,000. For these reasons, the Commission finds no reason to believe
7 that David Hale violated 52 U.S.C. § 30102(e)(1) by failing to file a Statement of Candidacy
8 within 15 days of becoming a candidate.

³ In 2013, the Committee reported total contributions of \$4,822.76 and total expenditures of \$1,279.61. *See* David Hale for Congress 2013 Year-End Report at 2 (Jan. 28, 2014). At the earliest, Hale reached \$5,000 in total contributions on January 1, 2014, and at the latest on January 20, 2014, depending on when he received unitemized contributions. *See* David Hale for Congress Pre-Primary Report at 5-8 (Mar. 6, 2014).

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: David Hale for Congress
and David Hale as treasurer

MUR 6770

I. INTRODUCTION

This matter was generated by a complaint filed by John Lask on December 31, 2013, alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act") and Commission regulations by David Hale for Congress¹ and David Hale in his official capacity as treasurer (collectively the "Committee"). It was scored as a relatively low-rated matter under the Enforcement Priority System, a system by which the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue.

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

The Complaint alleges that the Committee's publicly available website (<http://www.electdavidhale.com>) failed to include an adequate disclaimer. *Id.* at 2.

In his response to the Complaint, Hale acknowledges that the website failed to include a disclaimer. *Id.* at 4. Hale explains that the missing disclaimer was "fixed within hours of receiving notification," on January 14, 2014, and explains that the website was designed before the Committee had been created.² *Id.*

¹ Hale was an unsuccessful candidate for the 2014 primary election for Illinois's sixteenth congressional district.

² Hale may have received an unreported in-kind contribution for website construction in October 2013. In the Response, Hale states that website construction "was donated by a citizen not compensated by a 3rd party and, as such, is not reportable per FEC Candidate's Guide." Resp. at 2. It is unlikely that it was large enough to affect when Hale became a candidate.

1 **B. Legal Analysis**

2 The Act requires a disclaimer whenever a political committee, *inter alia*, makes a
3 disbursement for the purpose of financing any communication through any type of general
4 public political advertising; or whenever a person, *inter alia*, makes a disbursement for the
5 purpose of financing communications expressly advocating the election or defeat of a clearly
6 identified candidate, or solicits contributions through any type of general political advertising.
7 52 U.S.C. § 30120(a)(1). Moreover, Commission regulations specify that a disclaimer is
8 required for all Internet websites of political committees available to the general public.
9 11 C.F.R. § 110.11(a)(1). When a candidate, a candidate's authorized committee, or its
10 agents pay for a communication requiring a disclaimer, the disclaimer must clearly state that
11 the communication was paid for by the authorized committee. 52 U.S.C. § 30120(a)(1); *see*
12 *also* 11 C.F.R. § 110.11(b)(1).

13 The Committee acknowledges that its website failed to include an adequate disclaimer
14 until January 14, 2014. Resp. at 3-4. However, once the Committee received notification
15 regarding the missing disclaimer, it took prompt remedial action. *See id.* at 4. Moreover,
16 there was sufficient identifying information on the website so that the public would likely not
17 have been misled.³ Therefore, the Commission exercises its prosecutorial discretion, pursuant
18 to *Heckler v. Chaney*, 470 U.S. 821 (1985), and dismisses the allegation that the Committee
19 violated 52 U.S.C. § 30120(a)(1) by failing to include an adequate disclaimer on its website.

³ For example, there was a large image on the homepage with the words "David Hale for Congress," and the title of the website was "David Hale for Congress." In addition, the donation page stated that the recipient was "David Hale for Congress" and provided the individual contribution limits applicable to an authorized committee.